

REMARKS

I. Status of the claims

By this Amendment, Applicants amend claims 10, 11, and 13, and add new claims 15-35. With claims 1-8 and 12 have been previously canceled, claims 9-11 and 13-35 are pending.

In the final Office Action mailed January 13, 2004,¹ claims 9-11 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,516,205 B1 to *Oguma* (“*Oguma*”); and claims 13 and 14 were objected to as being dependent upon a rejected base claim but were indicated as drawn to allowable subject matter. Applicants filed an Amendment After Final on April 13, 2004, which was entered by the Examiner and in which claim 11 was amended and claim 13 was rewritten. The Advisory Action of April 28, 2004, indicated that claims 13 and 14 would be allowed and that the rejection of claims 9-11 would be maintained. Applicants request the timely allowance of claims 9-11 and 13-35, as discussed below.

II. Acknowledgment of Applicants’ Claim for Priority

Applicants note that the Examiner did not acknowledge Applicants’ claim for foreign priority from Japanese Patent Application No. 2000-124493 (“JP ‘493”), filed April 25, 2000, and did not acknowledge receipt of the priority document. Applicants’ Claim for Priority and a certified copy of the priority document were filed on March 19, 2001. Attached is a copy of the certification of JP ‘493, along with the date-stamped postcard, to corroborate that the certified copy of the priority document was indeed filed. Applicants request that the Examiner acknowledge Applicants’ claim for priority and that a certified copy of the priority document has been received.

¹ The final Office Action contains a number of statements reflecting characterizations of the applied art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the final Office Action.

III. *Oguma* does not qualify as prior art

Oguma is not a proper prior art reference within the context of 35 U.S.C. § 103(a).

Oguma's effective U.S. filing date is April 25, 2000. The present application, however, is entitled to the priority filing date of April 25, 2000 based on the priority deriving from JP '493 filed on that day. Because *Oguma*'s effective U.S. filing date of April 25, 2000, is not before Applicants' priority filing date of April 25, 2000, *Oguma* does not qualify as prior art under 35 U.S.C. § 102 and is therefore not competent prior art under 35 U.S.C. § 103(a). To remove *Oguma* as prior art, Applicants submit herewith an English language translation of JP '493 and a statement signed by the translator to the effect that the translation is accurate, thereby perfecting the claim to priority under 35 U.S.C. § 119(a)-(d).

With the claim to priority having been perfected, *Oguma* is not prior art to Applicants' claims. The rejection of claims 9-11 under 35 U.S.C. § 103(a) based on *Oguma* should therefore be withdrawn.² Further, *Oguma* cannot be used as a basis for rejecting new claims 15-35. Applicants therefore request withdrawal of the outstanding rejection under 35 U.S.C. § 103(a) and the timely allowance of claims 9-11 and 13-35.³

² Although Applicants request withdrawal of the rejection because *Oguma* is not prior art, Applicants do not acquiesce to the Examiner's allegations in the Advisory Action regarding *Oguma* and Official Notice.

³ Claims 13 and 14 were objected to, in the final Office Action, as being dependent upon a rejected base claim. In the Amendment After Final of April 13, 2004, claim 13 was rewritten in independent form, which resulted in an indication in the Advisory Action that claims 13 and 14 would be allowed. By this Amendment, Applicants rewrite claim 13 in dependent form. Because *Oguma* is not prior art to claims 13 and 14 (or base claim 9), Applicants deem the objection to claims 13 and 14 moot and request the timely allowance of these claims.

IV. Conclusion


In view of the foregoing, Applicants submit that this application is in *prima facie* condition for allowance. Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 13, 2004

By: 
Frank A. Italiano
Reg. No. 53,056

Attachments:

1. English language translation of Japanese Pat. Application KOKAI Pub. No. 2000-124493;
2. Statement signed by the translator that the translation is accurate; and
3. Copies of the certification of Japanese Patent Application No. 2000-124493 and the date-stamped postcard showing that the certified copy of the priority document was filed.